

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF JUNE 28, 1990

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a special meeting Thursday, June 28, 1990 at 8:00 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

Mr. Filley, Chairman, opened the special meeting and proceeded with agenda items.

ITEM #1 - Chairman's Report - There was none.

ITEM #2 - Old Business

Mr. Filley stated that we have a public notice from the Town of Tisbury which states that they will be holding a public hearing at the Katherine Cornell Theatre on July 16th at 7:30 p.m. to discuss the District of Critical Planning Concern (DCPC) that has been discussed which would include an area from the town line at the Oak Bluffs bridge all the way to the West Tisbury town line. Any Commissioners who would like to attend, please do so.

Mr. Filley then stated regarding the Marine Transit Conference that is underway in planning, Tom Simmons, MVC Staff, would like to have a Commissioner or two who might like to assist him as an advisor along with other members of appointed committees from other segments of the Island. Commissioners Early, Morgan and Greene volunteered.

ITEM #3 - Minutes of June 21, 1990

It was motioned and seconded to approve the minutes with corrections. The following changes were discussed: Steve Vancour should be changed to Stuart Fuller; Peter Van Tassle was present from the Historic District Commission; change spelling from Fliger to Fligor; Mr. Durawa question Mr. Ted Morgan's testimony representing the Board of Selectmen, he stated that he doesn't believe the Board voted on that particular point; however, it was stated that the minutes do reflect actual testimony, it was stated that the Board is in favor of "a movie theatre in downtown" but not necessarily this particular movie theatre; change spelling to Representative Carol; change name on page 18 from Flood to Floyd; change name on page 19 to Donald Vose. This motion passed with no opposition, 1 abstention, Eber. (Geller abstained.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Chairman of the Land Use Planning Committee (LUPC), reported that they had met Monday and discussed Tashmoo Dredging. We have a recommendation on that. We discussed Vineyard Assembly of God but we have no recommendation on that. We also had representative of MVY Realty Trust with us for a short time and they submitted some revised information on their DRI. We also discussed Spring Cove Realty Trust. As you remember we talked once before about the possibility of allowing permission to build a road and then put in the accessories on either side. We asked Greg Saxe, MVC Staff, to check into it. He had a conversation with Russell Smith. Russell thought that this is the intelligent way to do it. Not build the sediment areas first and then the road. However, nothing has been done on it since then. We didn't take any action. We still don't have from Spring Cove Realty Trust an answer to the question that Mr. Jason, Commissioner, posed about the suit that still prevails on the culvert. We heard from Mr. Saxe relative to some changes and whether or not it was necessary to go for a full modification on a Thimble Farm Decision regarding a very simple question of how they are going to put drains in their hot house. Mr. Saxe recommended that it was a very, very simple change and it is for the better. Instead of bringing this up to the Commission, LUPC agreed and saw no problems. We thought that it was an advantage with the drains around the edge of the building rather than in the center of the building. We had before us a Form A, lot exchange plan, that will be discussed later in this meeting under New Business. Wesley Arms came before us and will be filing either a modification or a new DRI with changes to the plans. Basically they are asking for 20 rooms in the new building, all rooms being constructed, first and second floor, but only 20 being used. He asked other LUPC members to comment on that.

Mr. Jason, Commissioner, stated that essentially what he wants to do is replace the 20 units he has with 20 new units. He wants to build the additional 13 units, at his own risk, and if he can't solve his problems with the Department of Environmental Protection (DEP) he won't use the rooms.

Mr. Morgan continued by stating that there will be no LUPC meeting on July 2, 1990. On July 9th we will meet with M.V. Hospital Long Term Care Facility, Playhouse Theatre in Edgartown, Oak Bluffs Housing for the Elderly, and we will probably be talking with Playhouse Theatre again on July 13th.

Mr. Morgan then reported as Legislative Liaison by stating that there is a Senate Bill 1991 which is the new budget just out of the Senate which will probably be discussed Saturday. It is \$50 million under the House bill. But an interesting thing there is that the MVC isn't showing up in the same place in the Senate Bill as we were when the House sent it over. This is a technical thing and we have to depend right now on the Senate allowing that to stay in there and having it voted on the floor. When the House sent to budget to the Senate the \$100,000 Commission line was in retained revenue. It is now in another line item under Administration of Environmental Management.

It is still under Dick Kendall and he will help us on this. Henri Rauschenbach had recent conversations with Pat McGovern and he is very encouraged. It doesn't look like it will be a problem but it isn't quite the same as it was when it went over and that is too bad. The courts have overruled the Governor and said he can't withhold 1/2 billion dollars in County aid. But no one is terribly encouraged in the towns as to just how the local aid is going to be handled. We have coming up in LUPC this housing for the elderly. I just sent to House Counsel a copy of legislation attempting to get a right of way from the M.V. Regional School through Community Services driveway to the 11 acres parcel that was given to Island Elderly Housing some time ago. The minute this gets into the House I would expect the bill to get approved. This is procedural. Liz Talbot asked that an announcement be made that anyone interested in 34A, that is the proposed charter commission, attend a meeting at the Airport at 9:00 on July 9th in the Crash Rescue building.

Mr. Early, Chairman of Planning and Economical Development, reported that they haven't met but he is planning to get together with Barry DiDato to get an update on progress on the Oak Bluffs Planned Development District plan next week.

Mr. Young reported for the Search Committee by stating that they met for two hours tonight. The field was narrowed from 40 applicants to 7 definite interviewees and 3 alternates, should an uncomfortable number of the 7 don't make the interview or decide they aren't interested. We discussed the candidate through most of the meeting and the last 15 minutes was used to discuss how to conduct the interviews, when they should be, etc. I'd like to schedule another meeting sometime soon, maybe next week, to pin down that stuff. The resumes of the finalists for the first round of interview are available for all Commissioners to look at. I encourage you to read them when you get a chance. I remind you again that they are confidential.

Mr. Early reported on the site visit to the Hospital Sewage facility. He stated it was very impressive. Ms. Colebrook, Commissioner, stated she was also very impressed. They are doing some upgrading. They showed us the infiltration from influx to end product. They showed us what the proposals were but they have already upgraded their treatment package and it is operating where they have an end product filtration rake. They test the effluent through all phases and then they ship it before a final bleach to a filtration unit that puts it through shallow, perkable sands and rakes it to send the silt back up again. So there are 5 different stages where the heavy material is sent back to begin process again. They have very little sledge. I was very impressed with their caring, their knowledge and their operation. Mr. Schilling, Acting Executive Director, stated that Kenny Ivory is running it and has to go for an upgrade from level 2 to level 4 to operate the new plant. Ms. Colebrook stated that the de-nitrification unit they are adding is very important as is the fact that no chlorine will be used.

ITEM #5 - Discussion - Tashmoo Dredging DRI, Town of Tisbury

Mr. Morgan, Chairman of LUPC, reported that LUPC unanimously recommended approval of this DRI based on Sections 15a, b, c, e, & g. There was no discussion.

ITEM #6 - Possible Vote - Tashmoo Dredging DRI, Town of Tisbury

It was motioned and seconded to approve the Tashmoo Dredging DRI. There was no discussion on this motion. The motion carried with 13 in favor, 0 opposed, 2 abstentions, Colebrook, Filley. (Harney was in favor, Geller abstained.)

ITEM #7 - Discussion - Vineyard Assembly of God DRI, Town of Tisbury

Mr. Filley asked members of the audience to sign in so we have your name on record. He then stated that as usually this discussion is for Commissioners only. If the Commissioners have a specific question for a member of the audience please direct that through the Chair.

Mr. Morgan, Chairman of LUPC, stated that when LUPC met there were 4 members present and 1 had to abstain. We didn't get into very much discussion for various reasons therefore we do not have a recommendation. I personally am for the Vineyard Assembly of God DRI approval with conditions.

Ms. Greene, Commissioner, stated that during LUPC there was discussion relating to a condition that if traffic became a problem during meeting hours that the applicant would provide police officer control. We talked about them perhaps cutting a couple of trees to improve sight distances at the access road. There was some question about finding a way to control the drinking water situation so that small children wouldn't drink from the well water through the faucets. The Board of Health stated that they should have bottled water. Ms. Greene stated that the other things we talked about was if they use the site for more purposes would they have to come back to us to get permission because at present they are saying they will only use it on Sundays and Wednesdays?

Mr. Sullivan, Commissioner, asked how you could prevent small children, or non-sighted people for that matter, from drinking the water? Ms. Eber, Commissioner, stated that she brought this up because obviously the faucets would have water that came from the well and I was wondering how they could prevent people from drinking from the faucets.

Mr. Young asked how the Board of Health plans to address it? Ms. Colebrook, Commissioner and Tisbury Board of Health agent, stated this was one of the concerns of the Board of Health, in as much as it was the Department of Environmental Protection who gave the transient designation. The question was asked to the applicant how do you prevent anyone from making coffee? They are going to try to attempt to educate people not to use the water for that purpose. Which will behove all of us in addition because they will begin to educate people

vocally about water conditions. But we further put a constrain on them by requiring they take water samples and gather monitoring data before they ever open the doors. I believe, Gervais, who is doing work for them is in the process of doing that now. Then quarterly they will continue to do that so that if a contaminant should enter the water the Board of Health would be advised of it immediately.

Ms. Greene stated there was also testimony during the public hearing asking them to test more stringently.

Mr. Filley asked if Commissioners would like the Board of Health letter read. Mr. Morgan responded yes and I would like to hear from the applicant or Mr. Gervais, his engineer. It might clear the air if that is permissible. The Tisbury Board of Health letter dated May 16, 1990 was read.

Mr. Gervais stated that the reason we were directly by the State to seek the alternative of using bottled water for drinking instead of the well water was that this type of building would require a public well installed. The technical name would be a non-community public water source. It would be impossible to construct that type of well on a lot of this size. There is no reason to think that the water coming into the Church from the well will be of any less quality than any other water in Tisbury that is served by well water. The reason we are going with bottled water is to fit the State regulation and not to avoid a health hazard.

Ms. Eber, Commissioner, stated I was under the impression that you didn't have proper separation for the well? Mr. Gervais stated that is incorrect. Our original proposal met the regulations for separation in the Town of Tisbury of 100 ft. We gave the Board of Health 2 proposals both of which were in excess of the 100 ft. separation. The proposed septic system designs which we submitted to the Board of Health show a greater than necessary separation between the septic and the well.

Mr. Sullivan stated that he doesn't understand then why the requirement for bottled water? Mr. Gervais stated that the State regulations say that any source of water which will serve more than 25 people more than 2 months of the year is classified as a non-community public water source and is subject to a multitude of regulations that a private well is not subject to. We cannot construct a well that fits the regulations set forth by the State to serve a building such as the Church. So they directed us to use well water to run the plumbing for the toilet, etc. and to use another source, meaning bottled water, for drinking. Mr. Sullivan asked if the State has a higher separation requirement? Mr. Gervais stated they require a 100 ft. radius around the well with no construction improvements, including a parking lot, with the exception of what you would need for the pump house. Considering this lot's maximum width is 155 ft. there is no way you are going to hit that 200 ft. diameter on this lot. Mr. Sullivan asked, so it is that separation that you cannot meet? The response was yes.

Mr. Early asked if there was any correspondence received since the public hearing. The response was yes. Mr. Early asked if this was going to be summarized or read? Mr. Filley responded Mr. Schilling will be reading that shortly.

Mr. Morgan stated that one other condition discussed had to do with an easement for a bike path, if and when a bike path went up-Island and on that side of the road. Mr. Young stated it may in fact be in the rear of the property instead of along the road. The West Tisbury Planning Board had contact with the Tisbury Planning Board and at that time there was talk of running the bike path off the road and through the land which is now Land Bank property. I don't think we would have a problem getting an easement to connect with anything we got from the Vineyard Assembly of God. I would strongly support a bike path easement.

Mr. Schilling, Acting Executive Director and Staff Planner assigned to this project, stated that one of the things requested was an accident report from the Chief of Police. He stated that Chief McCarthy has provided us with 3 years since this is all he has in his computer. He classifies major accidents as accidents involving personal injury or property damage over \$1,000.00. Minor accidents are all other vehicle accidents, including mopeds. Mr. Schilling reviewed the information provided in this letter dated June 1, 1990. (This is available in its entirety in the DRI file.) Mr. Schilling finished by stating that he has no traffic counts for this area. However they had requested the Department of Public Works (DPW) to survey this area and ascertain the changing of speed limits. Of course in these three years he had no fatalities. DPW did visit the site and responded that a lowering of the speed limit in their opinion was not called for.

Ms. Sibley asked what is the area defined? Mr. Schilling responded from Lambert's Cove Road to the West Tisbury Town Line. Ms. Sibley asked how long that is? The response was approximately 1 1/2 mile.

Mr. Schilling stated for example, in 1987 the Town of Tisbury had 274 accidents with 3 major and 1 minor in that area (reported accidents); 1988, total accidents 260, with 3 major accidents in that area; 1989 they had 256 accidents total with 3 major and 2 minor in that area. So it is approximately 1% of the accidents that have happened in those three years in that area.

Mr. Early asked if there is any record of the time of day of the accidents? Mr. Schilling stated he does have the hours, not the day of the week. He read this information for the Commissioners.

Mr. Schilling then reviewed a letter from Mark Hutker, Project Architect, dated May 30, 1990 and summarized as follows: The project in question has a use group classification of A-4 Assembly Building, and is not among the specified use groups required to provide the protection of a fire suppression system. The building, as designed, meets the conditions for the use of unprotected construction without the additional requirements of a fire suppression system.

The following letters of correspondence were also read in their entirety into the record at the request of the Commissioners (available in their entirety in the DRI file): FROM: Robert M. Eldredge, owner of the 3+ acre lot on the down-Island side of the lot in question. DATE: May 28, 1990. FROM: The Kingsbury Family, signed by: Craig, Gertrude, William & Victoria Kingsbury the other members of the family were not present to sign but are in favor of the contents, owners of the farm abutting the proposal on the up-Island side. DATE: May 25, 1990. Attached to this letter is a newsletter from Community Resource Development detailing the Farmland Preservation Act. FROM: Thomas Zinno, owner of the 2.97+ acre parcel abutting the rear of the lot in question. DATE: May 28, 1990.

Ms. Colebrook asked if Mr. Zinno's septic is H-20 loaded? Mr. Art Smith, applicant's agent, responded yes it is H-20 loading.

Mr. Filley opened the floor for general discussion.

Ms. Colebrook stated that she still has a question if someone could address it? I reviewed that plan and as I recall the Zinno plan and I don't understand, it is against DEP to have your septic system on someone else's property. Why would one property be driving on another property in the first place? Let alone the fact that there is a septic for the other property underneath? Mr. Filley asked the applicant to answer that question. Mr. Smith stated that when the property was subdivided there was a lot out in front and a back lot with a 40 ft. road reservation or easement area for access to the rear lot. I talked to David Lima today, who is married to the owner of the front property, he stated that the arrangement was that both pieces of property would be able to use that easement and it is in both deeds. It states that this can be used by the front and the back lot for any purpose for which a road can be used in the Town of Tisbury. There are no restrictions on this 40 ft. wide easement. Ms. Colebrook asked if the septic system is in the road? Mr. Smith stated it is in the very back part of it. Ms. Colebrook asked so in fact they will be driving over his field? The response was yes.

Ms. Greene stated I think the question is whether the Assembly of God entrance will go across his septic system and is the septic system on his own land? Mr. Smith stated they are not going on his land. Mr. Schilling stated that the septic system is off his land under the easement. The leaching field is under the 40 ft. easement.

Mr. Schweikert, Commissioner, asked is the septic in the portion of the easement that they would be driving on, all 70 cars? Mr. Smith stated it could be or we could move the driveway, theoretically, about 10 ft. and you would miss it.

Ms. Eber stated that she was on the Planning Board and that is a deeded access subdivision. Usually that 40 ft. way belongs to the rear lot because that is the only lot the rear lot has and the front lot has access on the road. That is the way we subdivided it. Mr. Smith stated that technically the property is part of the back lot. It is an easement that is granted over that. The reason it is done that way is that you want the front lot to come in off that too

because that way you only have one driveway. You don't have two separate entrances onto the road.

Mr. Wey asked Mr. Schilling to show the location of the septic on the plan. Mr. Schilling showed the road easement and location of the leaching field as shown on a map presented by Mr. Zinno in relation to the Church, parking and entrance onto the 40 ft. way. Mr. Wey stated it was mentioned that the road could be moved. Is that a possibility? Mr. Serrati, Engineer, stated that he is not familiar with the neighbors system but if the septic system is under the driveway it has to be a schedule 8 design. With H-20 loading you can drive onto of it. Actually a heavy truck can drive over that septic system with no problems.

Mr. Filley asked Ms. Eber ig in the subdivision of this lot, there was an easement drawn for this front lot? Ms. Eber stated that the way the Planning Board did it was that the road belongs to the rear lot. Mr. Smith stated there is a deeded easement to the front lot on the whole road reservation area which was designated on the plan. Mr. Smith stated there are two possibilities. One is that the septic system is designed to withstand driving over it. That is how it was put in the road. Regarding the concern, the back exit could be moved so it doesn't go over that septic system. It is not a make or break proposition.

Ms. Sibley stated that she would like to express some of her more fundamental concerns about the appropriateness of this project being in this location. I want to say that I feel very uncomfortable about this because during the course of the hearing it became clear to me that the members of the Assembly and the Pastor felt and referred to themselves as a family. It became clear that they really do feel that way and this particular situation is like one where any young family is looking to buy a house and there is a lot of enthusiasm. They have found a property and they think great, we are going to have a home. They are now facing question about whether or not that is appropriate. I am sure that this is very painful for them. But I actually do think that there are very serious questions about whether this is appropriate in this location. I understand the benefits that the Assembly of God can bring to the community. I think it is important for the Commission to remember that we are not here to weigh the benefits versus detriments of the Assembly of God as an organization. But rather to weigh the benefits and detriments of this development they are proposing in a particular location. The question is whether or not there are benefits or detriments to the community as a whole in having this particular development in this location. I feel that this really is in fact an inappropriate location for any institutional use for at least 4 reasons I can list right now. One is that the lot is a grandfathered, sub-standard lot even for residential purposes in the Town of Tisbury. To be putting a structure on it that is substantially larger than a residential structure and added to that a 70 space parking lot is clearly a drastic change to the community, the neighborhood. Related to that, the fact that it is a substandard lot, is this problem about the water. The State of Massachusetts says that a source of water that services more than 25 people for more than 2 months of the year should have a well of public quality. They can't

do that because this lot is a sub-standard lot. They have to resort to bottled water. Now bottled water can provide a solution to this problem but it can also be seen as a flag to the underlying problem that the lot is in fact sub-standard. I was very impressed with the letter from the Kingsbury's. I know some of it may seem amusing but since I have a small farm of my own with animals, I have been concerned when new people moved in next to me. Whether they would be disturbed by the noises of my geese and the smells of my animals. I would have to say that it is a very uncomfortable thing for someone who is carry on an agricultural process to have residential or institutional use closing in upon them. This is clearly an agricultural area. It is zoned agricultural/residential but in use almost that whole side of the road is agricultural or now in conservation. I believe that the location of this structure here would alter that irrevocable. Finally, all of those above three things concerns me, but I would probably not be ready to vote against the project for those three reasons if they were the only reasons. But then you add to that the traffic, which I believe is a serious threat to public welfare. It isn't just statistic. Maybe it is only 1% of the accidents in the Town but I am certain that this is less than 1% of the roadways in the Town. This is a very short stretch of road. I live a 1/2 mile away. I've passed a lot of accidents at all hours of the day. I don't pass a comparable number of accidents when I turn in the other direction down a long straight stretch of road towards West Tisbury. I think it is a very dangerous stretch of road and any unnecessary addition of curb cut activity is going to be a threat to the public at large.

Ms. Bryant stated that she isn't really sure how she is going to vote on this project but I think that the traffic cop is really important. When I look at the list of accidents the latest one was at 9:30 p.m. So I think that regarding the events as they propose, usage for Sundays and Wednesday nights, should be really clear in the conditions to reduce traffic and possibilities for accidents. Maybe trimming of the trees will alleviate a lot of that because they will have a better line of sight.

Mr. Sullivan stated that a while back during LUPC the question arose as to whether the Commission could exceed local zoning and regulate a church. I thought that was an interesting question so I looked at Chapter 831. Section 3 of regulatory powers states "In adopting regulations or specifying conditions which would not otherwise be permitted or required by existing local development ordinances and by-laws the Commission shall describe in writing and present evidence which demonstrates that the public health, safety and welfare would be endangered". To me it is a question of public health, safety and welfare in the siting of the well and the potential for traffic. I have lived on that section of the road and it is very tough getting onto State Road, even in the winter.

Mr. Schweikert asked, hasn't the question of the drinking water been answered? It is just the regulations of the State for 25 or more people that aren't met and that the separations are ok. Or did I miss something? Mr. Filley said it was stated that the State regulations are for a non-community drinking water. Mr. Schweikert asked that was

the only reason for bottled water is that correct? The response was yes.

Ms. Sibley stated that she would like to differ with that because if the lot were larger they would be able to meet the State regulations and I do think that this is important. It is not just an arbitrary regulation. If they were on a larger lot they would be able to meet the State regulations.

Mr. Sullivan stated that he doesn't know if we should be dispensing with State regulations because the applicant doesn't think much of them. I don't think that is a good precedent for us.

Ms. Greene stated that at one of the LUPC meetings we were handed a sheet on ordinances, Section 3.00. Is this a State or local ordinance? There was discussion on this question.

Mr. Morgan stated that he would like to try to eliminate the anti-feelings that prevails on less than fact. The lot is a legal lot no matter how somebody tries to interpret the size. The water source and the water in the jug is a legal system of dispensing water no matter how Linda (Sibley) might try to turn that around. She has a legitimate question about traffic and that should probably be all of our questions. The relationship of the church and the farm is so steeped in early American history it isn't even funny. Because first the farm came and then the next building to be constructed, if it wasn't a barn, was the church. So I don't want to start separating that any more. I am not a very religious individual but I do believe in democracy and I think you have to go in that direction and remember that and not scare the church away because there is a farm next door. I think it would be very important if this is voted in the affirmative to remind the people of the church to recognize the fact that there is a farm next door and that the farm came first. I think that will certainly give them privileges and priorities over saying if you are going to complain about my pig pen smell that is too bad. Let's not worry if the lot is the right lot. The lot is a legal lot. It just happens to be sub-standard because at some point zoning was increased and fortunately Chapter 40 protects the lot owner. It appears as though the use of the lot is also a correct use of the lot. It also appears that we might be playing around with a problem if we don't look at it that way. I am not saying that we have to vote this but if we are going to vote it down we should vote it down on very legitimate reasons not hysteria.

Mr. Early stated that he thinks the only legitimate regional issue here is traffic. I think there are some other issues but I don't think any of the problems associated with this project are unmitigatable by very standard conditions. I am looking at this as if it were any use that was producing this much traffic on that point on State Road. I don't care if it is a church or a McDonald's. To me the only regional issue is the traffic and how that impacts the cars. I don't see that this cannot be mitigated with conditions that have been applied to many other DRIs around the Island. As far as the water is concerned I think that has been adequately addressed. I think there are some conditions that the Commission may want to impose

to assure other regional objectives, like the bike path. I think that the idea of tree cutting ties right in with the traffic and it might require 3rd party consent. They might have to have some trees cut on neighbors land. This is really, for me, a traffic issue and I think that we have approved projects with a far greater and far more round the clock impact on roads that are more loaded than these are at this particular point.

Mr. Schweikert stated that he concurs with what John (Early) was talking about. I see most of the concerns being traffic also. I'd hate to deny a project like this because of traffic. Especially when this Commission and the Town of Tisbury is about to take on a study of that corridor and hopefully make recommendations within the next year to ameliorate the situation in general. Specifically in these areas where there is an increase in traffic and some potential problems. I think that keeping that in mind, we are going to be studying this problem and getting more involved in it and I can't see denying it for traffic alone at this point either.

Mr. Young added a footnote to that and John's comments, I think it might be appropriate to look at the fact that this is a church going here. I think that this may be a mitigating factor. I think that signage, whether it comes through the State or through the Town indicating that a church is going on this property would be appropriate. There has already been attempts to lower the speed limit in this area. I think the location of a church in this area will enhance those efforts.

Ms. Bryant stated she agrees about the traffic. What I remember from the testimony is that they were talking about a Sunday and Wednesday night use only. We certainly can condition that. I think what Mr. Young said about the type of business would make a real difference. We are not talking about cars leaving at 1:00 in the morning. We are talking about something that is very civilized according to the standards that we have set for DRIs in that it is a church.

Ms. Sibley stated she would like to argue that. She think that if it is approved it wouldn't be appropriate to limit their use of the building. I think it might be acceptable to us to reject the project as being inappropriate for the location, dangerous. But if we find that it is appropriate I don't think that we can infringe on their rights to use this building. That I think really would be interfering with the internal workings of their organization which I think is something that we really have no right to do.

Mr. Geller stated that his recollection was that the applicant was prepared, willing, that it should be limited to only those two days. Can we ask the applicant? Clearly for us to impose on the applicants the limitation of those 2 days without the applicant having asked for it in advance, I would agree with Ms. Sibley. But if they have asked us and they are prepared to do that then I see no problem with using that limitation. Mr. Smith stated that it is not true. I think the statement was that anytime they use it they would be willing to have a traffic officer. I believe that was what the statement was. Not to limit it forever to Wednesday nights and Sunday mornings. Any time

they use it or have a function they would be willing do whatever traffic limitations, or use traffic officers, you want during those times. Mr. Geller stated that you specifically indicate what the applicant is willing to do with respect to a policeman at the time. Before each function? I am not exactly clear as to when the policeman would be on duty. Mr. Smith stated I think whatever conditions the MVC place along those lines would be reasonable and acceptable to the Church. They are not the experts in traffic. I think the Commission has a better feel for that and we would be willing to accept limitations. Mr. Geller then asked are you prepared to say that anytime you have a meeting using the facility that there would be a policeman on duty at your expense? Mr. Smith stated if it were a function. Reverend Bar is there everyday and he has two clerical workers. I don't think you would want a policeman for that but anytime that they have services or a function you could have an officer present. Certainly. Reverend Bar responded to the question, would we be willing to have a traffic officer all the time?, by stating at this time we have 60 people. So at this time it is not really needed. When somebody sees a necessity, a need for it, we would be more than willing to do this. I don't know how you would determine when that it needed. At this point I don't think it is needed. If we have the building and there are 60 people, I don't think it is needed. But should the Church grow and there is a need for it we would be more than willing to. So we need to hear from somebody at what point do we need a traffic policeman. When 150 people go, all the time, or when 10 people go? This is too vague.

Mr. Schweikert stated that he would like to state that he doesn't think the Commission should get involved in when a policeman is needed there. I think the Commission should leave that up to the Police Department to work that out with them. It may depend on the function. I would also like to say that I don't think we should restrict the meetings or usage it is going to have because from a regional point of view the Island can always use another facility like that. Why restrict something like that. If we have it let's use it if given the opportunity. Let them work out the details with the Tisbury Police and not the Commission.

Mr. Early, Ms. Greene, and Ms. Harney all agreed with that recommendation.

Mr. Fischer, Commissioner, stated that he agrees with that also but with the present water system that they have approved, can the public use that facility? It was stated that if it is tested periodically you can keep up to date on that. Mr. Fischer continued by asking if this Church would welcome other functions, such as boyscouts, girlscouts, non-religious members, to use your facility? Mr. Bar stated as long as we have the right to say yes or no. It just depends on what it is and if it goes along with what we are all about. Boyscouts is pretty safe, I think. Mr. Fischer stated he was talking about seeing this building as an asset to the community. If the boyscouts were to approach you about using this facility? Mr. Bar stated he would be open to it anyway.

When there was no further discussion, Mr. Filley moved on to item #8 and read the list of eligible voters.

ITEM #8 - Possible Vote - Vineyard Assembly of God DRI, Town of Tisbury

It was motioned and seconded to approve with conditions the Vineyard Assembly of God DRI. The conditions were as follows:

1. Traffic mitigation in the form of a police officer provided at the expense of the applicant when deemed necessary by the Tisbury Chief of Police.
2. Incorporate bike path easement in plan.
3. The well drinking/water conditions should be as outlined in the Board of Health letter.
4. The sight lines along State Road should be designed to meet State regulations or better.

There was discussion regarding proposed condition 4. It was stated that removal of trees from the applicants property could improve the site distance towards up-Island.

The following conditions were added:

5. If this development in any way impacts on the sewage disposal system of the abutter, the applicant will mitigate such impact, with methods such as repair, reconstruction or replacement, at the total expense of the applicant.
6. A lighting plans should be submitted to LUPC for review and approve to ensure that the lighting doesn't infringe on neighbors.
7. Provide screening plan for the area between the Church and the neighboring farm to LUPC for review and approval. State recognition by the Vineyard Assembly of God that this is a working farm existing prior to VAG church.

There was discussion as follows: Regarding Condition #4: If the location of the access road where to be relocated for reasons of sight distance would this have to come back to the MVC? DPW would have review and jurisdiction of a new curb cut. There was discussion of the location of trees on the applicants property and whether these could be removed without DPW approval since they appear to be in the State easement. Regarding Condition #7: Reference was made to an early decision where the applicant and Commission regarded a neighboring kennel as a benefit to the community that should not be removed. The applicant was asked to recognize the farm and add any statements he would like incorporated into the decision. Rev. Barr stated that they recognize the farm is there. He has looked at the site and the separation distance and didn't see a problem. We won't

ask or encourage anyone to change or move anything, etc.

The following condition was added:

8. The screening to the rear abutter should be addressed.

There was discussion on Condition #8 as follows: Statements made during public hearing regarding the fact that the Church does not need to utilize full parking scheme at this time. The parking could be reduced at this time and when it is enlarged screening could be added. Mr. Tom Zinno, abutter to the rear, was asked to address this question. Mr. Zinno stated that the way this plan is set up the exit from the parking to the 40 ft. access road is approximately 70 ft. from my home and goes over my septic field. I see a more workable solution being to create the entrance and exit within the first 100 ft. of the 40 ft. way. Also discussed was the possibility of using an early cut in the parking lot and creating the entrance in the rear and exit in the parking thereby having cars stacked to exit on the applicant's property. Mr. Zinno stated he would like the natural buffer retained to retain the rural character of the property. There were questions on the Planning Board review of the parking layout. The Planning Board will require 1 tree for every 8 parking spaces. They will review and recommend changes as they see fit. There is a certain size of tree that will be disallowed. There was discussion of the early suggestion to keep the parking small and increase the size as needed. This would allow existing screening from the abutter to be maintained. There was discussion on the authority of the Planning Board as it relates to the use of this development as a church. The architect, Mr. Mark Hutker, was asked to comment on the suggestions made by Mr. Zinno. Mr. Hutker stated that they could easily move the exit to come out before the gate and the septic shown existing under the 40 access road. However if the septic was approved to go under the road it must be constructed to withstand the pressures. He showed the elevation contours and discussed them in relation to the proposed layout. He stated we will have to cut a little more out of the elevations but it could be done. There was discussion of the elevations from 99 to 94-95, requiring a 4-5 ft. cut. Mr. Hutker stated that Mr. Zinno's suggestions are good ones. There would still be ample area to stage.

The following condition was added:

9. A revised parking and circulation plan will be submitted by the applicant to LUPC for review and approval.

Condition #8 was modified to read: Screening between the applicant and the rear abutter will be revised based on the revised parking/circulation layout and will be reviewed and approved by LUPC.

Discussion followed: Regarding Condition #1 it was stated that this condition does not belay concerns for traffic. It was initially stated that the applicant would provide a police officer, now it appears that the applicant doesn't believe he needs one with the current size of the congregation. At a minimum it should be indicated

to the Chief of Police that he should be liberal in utilizing police protection to protect the citizens. It was stated that a police officer might not work because as the applicant stated people leave the church gradually, there isn't a large influx of cars leaving at once, therefore you would have a police officer there for an hour assisting 1 car every 7 minutes or so to exit.

Language regarding the diligence and liberal use of the police officer control will be added to condition #1 and a copy of the decision will be sent to the Chief of Police.

The motion to approve the application of the Vineyard Assembly of God with the conditions as stated above passed with a vote of 8 in favor, 3 opposed, 2 abstentions, Colebrook, Young. (Mr. Jason was not present at the table during this vote.) (Geller was in favor, Harney abstained.)

Following a short recess, Mr. Filley continued with agenda items at 10:20 p.m.

ITEM #9 - New Business

Mr. Filley asked Mr. Wey, Oak Bluffs Selectmen and MVC Commissioner, to bring us up to date on the Town vote the other day and the effects it might have on the Commission funding.

Mr. Wey stated that right now there is a lot of anger in Oak Bluffs, a lot of disappointment. Department Heads are extremely worried. The Selectmen have worked for the last few days trying to find ways to cut budgets. Tomorrow we will be handing Department Heads letters telling them how much to cut from their budgets. As far as the interests here, the question on the Commission, the funding of \$22,000 was turned down by the voters. We have been on the phone with the Department of Revenue for the last few days and the Town Counsel tried to answer all the questions. This is new in a way to us. The money is going to have to come out of the budget so we will have that amount for the Martha's Vineyard Commission. It is an assessment. As is the assessment for the Refuse District. They cut the amount at Town meeting but you can't really cut it. The overrides failed but we still have to pay the assessments. I discussed this with Norm Friedman, MVC Administrator. We have an appropriation for almost all of our first payment which is due next week. That will be paid less about \$2,000.00 which will go on to our next payment due on January 1st. In the meantime that is one of the issues we will have to deal with on the budget. We will have to cut other departments to come up with the money for these assessment. We are hoping that Eric Turkington will help us. I believe he is working now to get money from the State. Maybe our assessment, when it is due in January, will be lower. That will help the situation. The money has to come out of the working budgets right now. Mr. Wey stated that tonight we had \$35,000.00 in free cash and at the end of the Town meeting, after clearing up bills that we had, we have, I believe, .67 cents. We have more than that because a police cruiser was turned in and that gave us \$50,000.00 but that will go directly to the Police Department to try and supplement his budget. Here we are coming into the biggest

weekends of the summer and the Police Department has to cut its budget. He is talking about laying off all his summer help. He has to do it. They are talking about cutting his budget by \$50-60,000. That is just one step. It is very difficult because tax bills for Oak Bluffs came out about 3 weeks before the override vote. Everybody was reassessed at the highest point and everybody is upset. We tried as best we could with fliers, etc. It is just a very difficult time. People are worrying about State taxes, Federal taxes, property taxes, etc. It is a deterioration of services in towns themselves throughout Massachusetts. It is very sad. Motivation of town workers is down. What kind of motivation will you have when employees might be cut down to a 30 hour week, or might be laid off. Who knows what next year is going to bring. There won't be any increases in salaries. But the money for the MVC will be there somehow.

Mr. Filley stated that Peter Cronig and Ron Rappaport are here tonight. At their request and the Building Inspector's, we met and reviewed a proposal that Peter will be bringing to the Board of Appeals and the Building Inspector. The Commission is asked to look at this and make a determination as to whether or not we consider this a DRI.

Mr. Rappaport referred to a wall display to show the location of the proposal. This was 2nd floor storage. It is about 3,700 sq. ft. The proposal is to turn it into a large studio for ballet, dance, karate, yoga, etc. So it has to go to the Board of Appeals but it was suggested that I run it by you first. The issue is that this is the 2nd floor and was formerly utilized as storage for Cronig's Main Street Market. There is an access from the rear parking lot. It was utilized as business. Under Tisbury Zoning By-Laws he needs to get a special permit because it is a conversion, a club, and it is a specially permitted use in Vineyard Haven. The issue is does the conversion from a commercial use (storage) to a karate/dance studio (club) constitute a change in use of over 1,000 sq. ft. triggering Commission jurisdiction? My feeling is that it doesn't. I've always interpreted change of use as being an increase in use for zoning purposes, i.e. residential to commercial. From a less intense zoning use to a more intense zoning use. This is actually a decrease in the intensity of the type of zoning use from commercial to a club. My opinion is that it doesn't fall in the Commission's jurisdiction. However, Mr. Cronig will have to go to the Zoning Board of Appeals for a special permit and the issue will be raised at some point. We felt it would be best to raise it at the outset.

Mr. Filley called on questions from the Commissioners.

Mr. Schweikert stated that he believes when we were having our LUPC meetings discussing DRIs and changes, that we talked specifically about our ideas of change of use. We said specifically we felt it was mostly going from residential to commercial, a heavier or intense use. So in my opinion I don't see that we have to get involved in this.

Mr. Wey asked there is no change whatsoever in the structure? Just the use of the floor space? Mr. Rappaport stated he is going to build a handicap ramp and some changes to the roof line, windows, etc.

There will be no increase in floor area.

Mr. Young stated that he agrees with Mr. Schweikert that we did seem to have a consensus that change of use, for Commission review purposes, should be interpreted as a change from a less intensive use to a more intensive use. But this may be the one that belies the rule because what we have here is by definition, the more intense use being commercial downgrading to a less intensive use, however you want to describe it. But the commercial use was storage so it didn't generate anything. Mr. Rappaport stated that he has always interpreted storage as commercial space. I've also counted storage as part of the space you have to compute to see if it fall in Commission jurisdiction and I believe you follow that too. Mr. Young stated that what you have here though is, separating the floor area of the store itself, which is what really generated the traffic and the use intensity in the past and that has now been turned into stores. Now you have the upstairs storage which generated nothing. Mr. Rappaport stated that it is sort of a flip. You are saying if someone is using storage then you are going to bring them in here because they are over 1,000 sq. ft. but then when they want to take the storage and use it for something else you are going to say they have to come here because it is a change of use.

Mr. Fischer asked when it would be in use? At night, during the day, is parking and traffic a consideration? Mr. Cronig stated it could be used anytime during the day. Most likely the main times will be 4-10:00 p.m. It does have a 17 space parking lot.

Mr. Jason stated that he thinks this is a decision that is can best handled at the local level. They could have used this space to increase the sq. footage of the market.

Mr. Morgan agreed.

Mr. Filley asked Mr. Cronig, what is the capacity of that upstairs area? Mr. Cronig stated that 50 people could train on the deck at any one time and then there could be 16 spectators.

Mr. Early stated that on the small plan that was passed around it indicated toilet facilities and a locker room. There are no showers? Mr. Cronig responded no. Mr. Early asked, so there would be no increase in wastewater discharge? Mr. Cronig responded no but there is a new septic.

There was further discussion related to the subject of what the Commission interprets as a change of use.

It was motioned and seconded to not consider the proposed change of use as a DRI. This motion passed unanimously.

Mr. Filley stated that a letter to this effect will be sent to the Zoning Board of Appeal via certified mail.

Mr. Filley asked Mr. Schilling, Acting Executive Director, to address the next item of new business.

Mr. Schilling stated we received a Form A request from the West Tisbury Planning Board for a subdivision for the purpose of creating access to land on Lambert's Cove Road in West Tisbury. Mr. Stewart is in the process of trying to sell 57 acres to the Land Bank that is land locked. Land owned by Francis C. Sutula will be given to Robert B. Stewart, an 823 sq. ft. triangle parcel across the road to provide access to other lands. For that little triangle Mr. Sutula is getting from Mr. Stewart 2 parcels of land for a guest house, 34,000 sq. ft. on one side and 38,000 sq. ft. on the other side.

Mr. Schweikert asked, does this enable the Land Bank to buy more wooded lands that it doesn't really need? This question was deemed to be irrelevant to the Commission decision. Mr. Schilling stated it will provide access to whoever buys the land.

Mr. Schilling used a wall display and described the location.

Mr. Jason stated that he doesn't think this is a DRI. It will not be creating any buildable lots. All it is a lot line change.

It was motioned and seconded that this is not a DRI since it creates no buildable lots. This motion passed with 2 opposed, no abstentions. A letter will be sent to the West Tisbury Planning Board via certified mail.


ITEM #10 - Correspondence

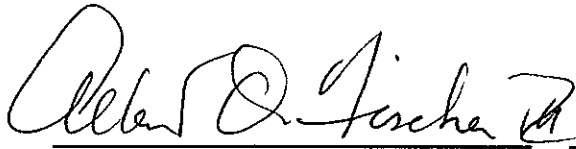
Mr. Filley read letters of correspondence summarized as follows:
FROM: Burton Engle, Chairman of the Friends of Middle Road. DATE: June 20, 1990. Adds their voice in support of the proposed study of traffic and development along the State highway that runs from Oak Bluffs through Vineyard Haven, West Tisbury and Chilmark. This highway is the Island's main artery and must be kept open for many essential services. It is also the principal connection to the mainland ferries. It is already a failed road. The Friends believe that the proposed thorough study of traffic and development along the State highway will contribute vital information toward any serious planning for the Island's future. During the past two years the MVC has shown exemplary leadership by creating task forces to study the problems of growth and development on the Vineyard. If there is to be growth, we must plan for it. The highway study will help us plan for our own future. FROM: Edgartown Planning Board. DATE: June 28, 1990. Enclosed please find the Edgartown Master Plan 1990. FROM: Tom Bales. DATE: June 25, 1990. It is with regret that I announce Friday, July 27 will be my last day as a planner at the MVC. I have been accepted to the University of Massachusetts Masters of Landscape Architecture and Regional Planning Program. I thank you all for giving me the opportunity to work in such an exciting environment. (All letters are available in their entirety in the meeting file.)

Commissioners thanked Mr. Bales for all his efforts and wished him luck in his educational endeavors. Mr. Filley stated that hopefully you will think of us when you complete your courses. A round of applause followed.

The meeting was adjourned at 10:47 p.m.

ATTEST


J. Woodward Filley, 7/12/90
Chairman Date


Albert O. Fischer, III, 7-12-90
Clerk/Treasurer Date

Attendance

Present: Bryant, Colebrook, Early, Eber, Durawa, Filley, Fischer, Greene, Jason*, Morgan, Schweikert, Sibley, Sullivan, Wey, Young, Geller, Harney**.

Absent: Lee, Benoit, McCavitt, Allen, Davis.

* Mr. Jason was not present at the table during Items 7 & 8, Vineyard Assembly of God.

** Ms. Harney arrived at 8:40 p.m.